

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

CRIMINAL PETITION No.5797 OF 2024

ORDER:

1. This Criminal Petition is filed under Section 438 of Cr.P.C seeking anticipatory bail.
2. The petitioner is sole accused in COR No.396 of 2012 dated 21.01.2012, on the file of the Proh. & Excise Police Station, Narayanakhed, Sangareddy District, registered for the offences punishable under Sections 8(b) r/w 20(a), (i) of NDPS Act, 1985.
3. I have heard Sri Palle Sriharinath, learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State.
4. The accusation against the petitioner is that on reliable information about illegal cultivation of ganja plants in Sy.No.34 of Karamurgi village shivar, the Proh. & Excise Inspector, Narayanakhed along with his staff,

on 21.01.2012 surprised the premises and found ganja plants of 93,315 in the land of Sy.No.34 and after collection of samples destroyed the other ganja plants. The specific allegation against the petitioner is that, the plantation was in the agricultural land of the petitioner.

5. Learned counsel for the petitioner would submit that the alleged COR was registered in the month of January, 2012 and after 12 years, the prosecution is proceeding against him on this complaint. That apart, the extent of Sy.No.34 of Karamurgi village is 100 acres and even as per the mediators report/complaint, it is not clear that they found the ganja plants in the land of the petitioner. Further, reading is giving sense that there is another piece of land where the ganja plantation has been found and it is not clear as to which portion has been mentioned in the complaint. That apart, investigating agency did not adhere to the mandatory procedure in collection of samples as contemplated under Section 52(A) of NDPS Act. Nonetheless, the

petitioner is ready to co-operate with the investigation and the judicial process, however, as he is apprehending arrest, prayed for grant of anticipatory bail.

6. Learned Additional Public Prosecutor opposed bail application and submits that complainant has raided the agricultural land, and in Sy.No.34 huge cultivation of ganja plants numbering 93,315 are found and the record is pointing that the relevant land belongs to the petitioner. However, fairly admitted that there is no explication on record as to continuance of the proceedings in the crime, after 12 years.

7. I have considered the submissions of learned counsel and perused the materials on record.

8. By the record, the complaint is of 21st January, 2012. The silence on the part of investigating agency, prosecution for a period about 12 years is beyond comprehension. Further, the record is unclear as to the basis of localizing the ganja plantation in the land of the

petitioner. The particulars referred in the complaint that they found ganja plantation in Sy.No.34, the reference of another part of ganja plantation and considering the other materials placed on record, this Court finds that the prayer for anticipatory bail can be positively considered.

9. Accordingly, the present Criminal Petition is allowed on the following conditions:

- 1) The petitioner/accused is directed to surrender before the Station House Officer, PS, Excise Narayanakhed on or before 21.06.2024. Upon such surrender, the Station House Officer shall release the petitioner on bail, on executing a self-bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a like sum each to his satisfaction.
- 2) The petitioner shall appear before the Station House Officer on every Tuesday till filing of charge sheet. Further, the petitioner shall make himself available for

interrogation and the judicial process as and when required, except for leave of the Court.

3) The petitioner shall abide by the other conditions stipulated in Section 438(2) of Cr.P.C.

4) In case the petitioner commit breach of any of the above conditions, the bail is liable to be cancelled at the instance of the prosecution.

10. Accordingly, this Criminal Petition is allowed. Miscellaneous applications, pending if any, shall stand closed.

Date: 11.06.2024
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N.TUKARAMJI, J

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Dt.11.06.2024

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